

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	8:05CR249
	)	
vs.	)	<b>FINAL ORDER OF</b>
	)	<b>FORFEITURE</b>
	)	
DOUGLAS W. BIVENS,	)	
	)	
Defendant.	)	

NOW ON THIS 5th day of December, 2005, this matter comes on before the Court upon the United States' Motion for Final Order of Forfeiture and Memorandum Brief. The Court reviews the record in this case and, being duly advised in the premises, find as follows:

1. On October 4, 2005, the Court entered a Preliminary Order of Forfeiture pursuant to the provisions of Title 21, United States Code, Sections 841 and 853, based upon the Defendant's plea of guilty to Counts I, II and III of the Information filed herein. By way of said Preliminary Order of Forfeiture, the Defendant's interest in the following:

a. The following-described property located in Washington County, Nebraska:

Tax Lot 23, being a tract of land lying in the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 33, Township 17 North, Range 13 East of the 6th P.M., Washington County, Nebraska, more particularly described as follows: commencing at the NW corner of Section 33, and assuming the West line of said Section to bear due North-South; thence North 89°34'04" East along the North line of said Section a distance of 33.0 feet to the point of beginning; thence continuing North 89°34'04" East a distance of 838.2 feet; thence South a distance of 750.0 feet; thence South 89°34'04" West a distance of 838.2 feet to the easterly right-of-way of a county road; thence North a distance of 750.0 feet to the point of beginning. Except that part of Tax Lot 23, lying in the NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 33, Township 17 North, Range 13 East of the 6th P.M., Washington County, Nebraska, more particularly described as follows: from the NW corner of Section 33, Township 17 North, Range 13 East;

thence South 00°00'00" East (assumed bearing) along the West line of the NW¼ of said Section 33 a distance of 750.02 feet; thence North 89°30'37" East a distance of 33.00 feet to the SW corner of Tax Lot 23 in said Section 33 lying on the easterly right-of-way line of County Road 51 and the point of beginning; thence North 00°00'00" West along said easterly right-of-way line a distance of 438.30 feet; thence North 89°30'37" East a distance of 483.30 feet; thence South 00°00'00" East a distance of 438.30 feet to a point on the South line of said Tax Lot 23; thence South 89°30'37" West along said South line a distance of 438.30 feet to the point of beginning. Together with Tax Lot 25, being the North 750 feet of the East 871.2 feet of the West 1,742.4 feet of the NW¼ of Section 33, Township 17 North, Range 13 East of the 6th P.M., Washington County, Nebraska, and all more particularly described as follows: beginning at a point on the North line of said Section 33 and 871.2 feet East of the NW corner of said Section 33; thence North 89°34'04.6" East along said North line a distance of 871.2'; thence South 00°00'00" East parallel to the West line of Section a distance of 750 feet; thence South 89°34'04.6" West parallel to the North line of the Section a distance of 871.2 feet; thence North 00°00'00" East parallel to the West line of the Section a distance of 750 feet to the point of beginning. Now known as Tax Lot 41 in the N½NW¼ 33-17N-13E of the 6th P.M.

- b. One 1999 Ford F-350 Pickup, VIN 1FTSW31F7XEC65281, seized from the residence of DOUGLAS W. BIVENS on May 16, 2005, by deputies of the Washington County Sheriff's Department.
- c. Three hundred forty-nine dollars in United States currency seized from the residence of DOUGLAS W. BIVENS on May 16, 2005, by deputies of the Washington County Sheriff's Department.

was forfeited to the United States.

2. On October 21, 28 and November 4, 2005, the United States published in a newspaper of general circulation notice of this forfeiture and of the intent of the United States to dispose of the properties in accordance with the law, and further notifying all third parties of their right to petition the Court within the stated period of time for a hearing to adjudicate the validity of their alleged legal interest(s) in said properties. An Affidavit of Publication was filed herein on December 1, 2005 (Filing No. 29).

3. The Court has been advised by the United States no Petitions have been filed. From a review of the Court file, the Court finds no Petitions have been filed.

4. The Plaintiff's Motion for Final Order of Forfeiture should be sustained.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

A. The Plaintiff's Motion for Final Order of Forfeiture is hereby sustained.

B. All right, title and interest in and to the subject properties, i.e.:

a. The following-described property located in Washington County, Nebraska:

Tax Lot 23, being a tract of land lying in the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 33, Township 17 North, Range 13 East of the 6th P.M., Washington County, Nebraska, more particularly described as follows: commencing at the NW corner of Section 33, and assuming the West line of said Section to bear due North-South; thence North 89°34'04" East along the North line of said Section a distance of 33.0 feet to the point of beginning; thence continuing North 89°34'04" East a distance of 838.2 feet; thence South a distance of 750.0 feet; thence South 89°34'04" West a distance of 838.2 feet to the easterly right-of-way of a county road; thence North a distance of 750.0 feet to the point of beginning. Except that part of Tax Lot 23, lying in the NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 33, Township 17 North, Range 13 East of the 6th P.M., Washington County, Nebraska, more particularly described as follows: from the NW corner of Section 33, Township 17 North, Range 13 East; thence South 00°00'00" East (assumed bearing) along the West line of the NW $\frac{1}{4}$  of said Section 33 a distance of 750.02 feet; thence North 89°30'37" East a distance of 33.00 feet to the SW corner of Tax Lot 23 in said Section 33 lying on the easterly right-of-way line of County Road 51 and the point of beginning; thence North 00°00'00" West along said easterly right-of-way line a distance of 438.30 feet; thence North 89°30'37" East a distance of 483.30 feet; thence South 00°00'00" East a distance of 438.30 feet to a point on the South line of said Tax Lot 23; thence South 89°30'37" West along said South line a distance of 438.30 feet to the point of beginning. Together with Tax Lot 25, being the North 750 feet of the East 871.2 feet of the West 1,742.4 feet of the NW $\frac{1}{4}$  of Section 33, Township 17 North, Range 13 East of the 6th P.M., Washington County, Nebraska, and all more particularly described as follows: beginning at a point on the North line of said Section 33 and 871.2 feet East of the NW corner of said Section 33; thence North 89°34'04.6" East along said North line a distance of 871.2'; thence South 00°00'00" East parallel to the West line of Section a distance of 750 feet; thence South 89°34'04.6" West parallel to the North line of the Section a

distance of 871.2 feet; thence North 00°00'00" East parallel to the West line of the Section a distance of 750 feet to the point of beginning. Now known as Tax Lot 41 in the N½NW¼ 33-17N-13E of the 6th P.M.

- b. One 1999 Ford F-350 Pickup, VIN 1FTSW31F7XEC65281, seized from the residence of DOUGLAS W. BIVENS on May 16, 2005, by deputies of the Washington County Sheriff's Department.
- c. Three hundred forty-nine dollars in United States currency seized from the residence of DOUGLAS W. BIVENS on May 16, 2005, by deputies of the Washington County Sheriff's Department.

held by any person or entity, are hereby forever barred and foreclosed.

C. The subject properties, i.e.:

- a. The following-described property located in Washington County, Nebraska:

Tax Lot 23, being a tract of land lying in the NW¼ of the NW¼ of Section 33, Township 17 North, Range 13 East of the 6th P.M., Washington County, Nebraska, more particularly described as follows: commencing at the NW corner of Section 33, and assuming the West line of said Section to bear due North-South; thence North 89°34'04" East along the North line of said Section a distance of 33.0 feet to the point of beginning; thence continuing North 89°34'04" East a distance of 838.2 feet; thence South a distance of 750.0 feet; thence South 89°34'04" West a distance of 838.2 feet to the easterly right-of-way of a county road; thence North a distance of 750.0 feet to the point of beginning. Except that part of Tax Lot 23, lying in the NW¼NW¼ of Section 33, Township 17 North, Range 13 East of the 6th P.M., Washington County, Nebraska, more particularly described as follows: from the NW corner of Section 33, Township 17 North, Range 13 East; thence South 00°00'00" East (assumed bearing) along the West line of the NW¼ of said Section 33 a distance of 750.02 feet; thence North 89°30'37" East a distance of 33.00 feet to the SW corner of Tax Lot 23 in said Section 33 lying on the easterly right-of-way line of County Road 51 and the point of beginning; thence North 00°00'00" West along said easterly right-of-way line a distance of 438.30 feet; thence North 89°30'37" East a distance of 483.30 feet; thence South 00°00'00" East a distance of 438.30 feet to a point on the South line of said Tax Lot 23; thence South 89°30'37" West along said South line a distance of 438.30 feet to the point of beginning. Together with Tax Lot 25, being the North 750 feet of the East 871.2 feet of the West 1,742.4 feet of the NW¼ of Section 33, Township 17 North, Range 13 East of the 6th P.M., Washington County, Nebraska, and all more particularly described as follows: beginning at a point on the North line of said Section

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be, and the same hereby are, forfeited to the United States of America .

D. The United States Marshal for the District of Nebraska is directed to dispose of said properties in accordance with law. Additionally, the United States and Mr. Bivens have agreed the Marshal will sell the real property in a commercially reasonable manner. The Marshal will use the sale proceeds to reimburse his office for whatever expenses his office incurred in maintaining custody of the property until its sale and closing, to include a realtor's commission. Then, the net proceeds of the sale will be divided between the United States and Mr. Bivens: The United States will receive seventy percent and Mr. Bivens will receive thirty percent.

DATED this 5th day of December, 2005.

**BY THE COURT:**

s/ Joseph F. Bataillon  
**JOSEPH F. BATAILLON, CHIEF JUDGE**  
**United States District Court**